

UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

FENIX D'HAITY,

v.

PRISONER

Case No. 3:07CV1810 (CSH) (JGM)

WARDEN ANTHONY COLETTI

RULING ON PENDING MOTION

The petitioner seeks to compel the court to hold an evidentiary hearing in this matter. He claims that he has asserted a "colorable" claim for relief that entitles him to an evidentiary hearing. The respondent has filed a memorandum in response to the amended petition for writ of habeas corpus arguing that the sole claim in the petition should be denied because it has been procedurally defaulted and the petitioner has not shown cause and prejudice sufficient to overcome the procedural default. In the alternative, the respondent contends that the claim should be denied because it is a matter of state law for which the petitioner cannot obtain federal habeas relief. The court has reviewed the amended petition and the memorandum in response to the amended petition and concludes that an evidentiary hearing will not be necessary to rule on the amended petition. Accordingly, the Motion to Compel the court to hold an evidentiary hearing [**doc. # 15**] is **DENIED** without prejudice to Senior U.S. District Judge Charles S. Haight, Jr. reaching a different conclusion.

SO ORDERED this 31st day of March, 2011, at New Haven,
Connecticut.

/s/ Joan G. Margolis, USMJ
JOAN G. MARGOLIS
UNITED STATES MAGISTRATE JUDGE